

Applic. No.: 10/629,926

Amdt. Dated September 23, 2005

Reply to Office action of June 23, 2005

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-24 remain in the application. Claim 1 has been amended.

In the section entitled "Claim Rejections - 35 USC § 103" on pages 2-4 of the above-mentioned Office action, claims 1-3, 5-16, 19, and 21-22 have been rejected as being unpatentable over DeVilbiss et al. (US 5,989,285) in view of Kushnir et al. (US 6,685,731) under 35 U.S.C. § 103(a).

The rejection has been noted and claim 1 has been amended in an effort to even more clearly define the invention of the instant application. Support for the changes is found, for example, on page 5, line 20 to page 6, line 14 of the specification and the drawings, in particular Figs. 1 and 2.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claim 1 calls for, inter alia:

an applicator having at least two layers defining a space therebetween with at least two closed chambers or channels laterally adjacent one another, each chamber or

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channel being independently and individually fillable with fluidic media for independently and individually releasing the chemical/physical parameters.

Claim 1 of the instant application has been amended to emphasize the at least two chambers or channels being closed and their spacial arrangements to one another, namely their lateral alignment.

In contrast to the subject-matter of the invention of the instant application, DeVilbiss et al. describe a temperature controlled blanket 10 with a heating and/or cooling system 110, wherein the blanket 10 provides on its upper and lower surface passages 38, 46 for receiving a fluid or gas. These passages 38, 46 are arranged in U-form (see Figs. 1-2, 8, and 10-11). The beginning and end of the U-form passages 38, 46 disemboque in chambers 40, 42 or 48, 50 located at an outermost side, i.e. a rim, of the blanket 10. For filling the passages 38, 46 inputs and outputs 56, 58, 60 and 62 are provided adjacent the chambers 40, 42 or 48, 50 on the outermost side of the blanket 10. The inputs and outputs are connected to the heating and/or cooling system 110. The heating and/or cooling system 110 includes a control unit, a heat exchanger, pumps, and fluid reservoirs, etc.

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The reference Kushnir et al. has already been discussed in detail in the previous response. According to the Examiner's opinion, this cited reference is relevant because it discloses sensors for detecting body parameters of a patient (biosensors), with which the media in the body garment described may be controlled in dependence on the parameters detected.

The temperature controlled blanket 10 according to DeVilbiss et al. is somewhat similar to the garment of Kushnir et al. in terms of its structure. Similar to the partitions 34A, 34B, 35, 36A and 36B defining a fluid pathway 37A, 37B, 37C and 37D in the garment of Kushnir et al., the passages 38, 46 in the blanket 10 according to DeVilbiss et al. are in permanent communication. This continuous exchange of the fluid or the gas is provided by and via the chambers 40, 42, 48, and 50 on the outermost side of the blanket 10. Thus, the passages 38, 46 of DeVilbiss et al. are also open. The blanket 10 according to DeVilbiss et al. has a layered structure wherein the passages 38, 46 in the blanket 10 are arranged on top of each other (see Figs. 3-5, 7, 9 and 12 as well as Fig.13). Although the passages 38 of the upper surface and the passages 46 of the lower surface may be seen as independently fillable channels, temperature can only be released via the entire surface of the blanket 10 during operation due to the open

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structure of the passages. Furthermore, only one single medium can be applied onto a patient's body.

In contrast to the teaching of DeVilbiss et al. as well as of Kushnir et al., claim 1 the instant application provides an applicator with self-contained rooms, each individually fillable with liquid and/or gaseous media. During operation in contact with a patient's body, each medium present in the chambers and/or channels can be controlled separately and independently and can, furthermore, be of a different nature. Due to the spacial arrangement of the chambers and/or channels local body parts can be treated differently. Further, the individual treatments of the body parts can be carried out concurrently. To give a simple example of the manifold treatment provided by the applicator of the invention of the instant applicaiton: the breast of the patient can be treated by applying a defined pressure; at the same time, temperature can be released to the stomach of the patient.

Since DeVilbiss et al. as well as Kushnir et al. suggest open channels, and the application of media onto the patient's body is restricted to the entire body at once and with the same media, a person skilled in the art would not think about providing self-contained rooms fillable individually and independent from one another. No hints can be found in the

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cited documents that they intended to provide channels or chambers of an applicator with which local regions of a patient's body can be treated individually, in particular with different media.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

Applicants acknowledge the Examiner's statement in the section entitled "Allowable Subject Matter" on page 4 of the above-mentioned Office action that claims 4, 17-18, 20, and 23-24 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Since claim 1 is believed to be patentable as discussed above and claims 4, 17-18, 20, and 23-24 are ultimately dependent on claim 1, they are believed to be patentable in dependent form. A rewrite is therefore believed to be unnecessary at this time.

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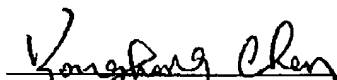
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In view of the foregoing, reconsideration and allowance of claims 1-24 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made. Please charge any fees which might be due with respect to 37 CFR Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,


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